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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,897	08/07/2003	Brett A. Latimer	46555-026	7811
20277	7590	08/06/2004	EXAMINER	
MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			LEV, BRUCE ALLEN	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/635,897	LATIMER ET AL.
Examiner	Art Unit	
Bruce A. Lev	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 August 2003.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 8-12, 15-19 and 21 is/are allowed.

6)  Claim(s) 1-7, 13, 14, 20 and 22-36 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01052004.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

U.S. Patent and Trademark Office  
PTO-326 (Rev. 1-04)

## Office Action Summary

Part of Paper No /Mail Date 07272004

## DETAILED ACTION

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language should avoid using phrases which can be implied, such as, "is provided" and "to provide", as in lines 1-3.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 13, 14, 22-30, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by **Alim 6,347,687**.

**Alim sets forth** a folding ladder comprising an upper ladder section comprising left and right ladder rails; a lower ladder section comprising left and right ladder rails; a lockable resistance hinge 17 rotatably connecting the upper and lower ladder rails; a plurality of steps (44 and 96) rotatably disposed between the ladder rails between retracted and deployed positions; left and right step rails 88 and 92 joining front portions of the steps and rotatably connected by a joint; and wherein the ladder being formed from one of metal, resin, and composite material.

Claims 22-36 are rejected under 35 U.S.C. 102(b) as being anticipated by

***McCallister et al.***

***McCallister et al set forth*** a folding ladder comprising an upper ladder section comprising left and right ladder rails; a lower ladder section comprising left and right ladder rails; a plurality of steps (36 and 38) "rotatably" disposed between the ladder rails between retracted and deployed positions; the lower rails configured to slide within tracks of the upper rails; an additional section (viewed as the foot portions) configured to translate and rotate with respect to the lower ladder section; and wherein the ladder being formed from one of metal, resin, and composite material.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over ***Alim in view of McCallister et al 4,750,587.***

***Alim sets forth*** the ladder, as advanced above, except for a pivoting foot upon the end of a rail of the folding ladder apparatus. However, ***McCallister et al teach*** the use of a pivoting feet upon the end of the rails of the folding ladder apparatus. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the ladder of Alim by incorporating a pivoting foot upon

the folding ladder, as taught by McCallister et al, in order to provide increased friction and traction upon uneven or slanted surfaces.

***Allowable Subject Matter***

Claims 8-12, 15-19, and 21 are allowable over the prior art of record.

The following is an examiner's statement of reasons for allowance:

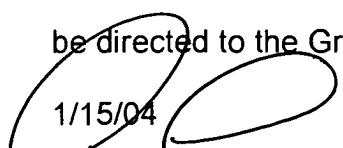
***As concerns claims 8 and 15***, structural limitations pertaining to the ***slotted link member*** being secured to the ***pin***, wherein the link member is rotatable and translatable about the pin, along with the other structural limitations are neither taught nor suggested by the prior art of record.

***As concerns claim 21***, structural limitations pertaining to the ***foot*** translating along a ***track*** provided along the inside of the ladder rail, along with the other structural limitations are neither taught nor suggested by the prior art of record.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

1/15/04  
  
Bruce A. Lev  
Primary Examiner  
Group 3600